THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WVMP.No.605 of 2007
IN
WPMP.No.29447 of 2006
AND
WRIT PETITION No. 23119 of 2006

Dated: 23.11.2007

Between:

Bommareddy Radhakrishnaveni Kumari
... Petitioner

AND

The State of A.P., rep., by its Principal Secretary,
Revenue Department (Land Acquisition),
Secretariat, Saifabad, Hyderabad and others.

... Respondents

Counsel for the petitioner : Sri B. Adinarayana

Counsel for the respondents : Assistant Government Pleader for
Land Acquisition

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WVMP.No.605 of 2007
IN
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AND
WRIT PETITION No. 23119 of 2006

ORDER:-

This is an application to vacate interim order dated 08.11.2006 passed in WPMP.No.29447 of 2006 in Writ Petition No.23119 of 2006.

With the consent of the counsel for both parties, the main writ petition itself is being disposed of.

The present writ petition is filed questioning notification and declaration dated 03.06.2006 and 13.10.2006 issued under Sections 4(1) and 6 of the Land Acquisition Act, 1894 (for short, 'the Act') respectively by respondent No.2. In the averments contained in the affidavit filed in support of the writ petition, the petitioner averred as under:

Respondent No.2 issued notification dated 03.06.2006 under Section 4(1) of the Act notifying an extent of Ac.0.42 cents and Ac.0.58 cents in Sy.Nos.150/3A2 and 160/4 respectively of Pedamaddali Village for providing house sites for the poor people. Enquiry under Section 5A of the Act was dispensed with by invoking urgency clause. The petitioner filed Writ Petition No.13218 of 2006 before this Court and by order dated 30.06.2006 the said writ petition was disposed of directing the respondents to hold enquiry and consider and dispose of the objections of the petitioners, if any to the proposal for acquiring her lands. In

pursuance of the said order, respondent No.3 issued notice dated 12.08.2006, wherein the petitioner was asked to appear before her on 19.08.2006 with objections. The petitioner submitted her objections on 17.08.2006 through her advocate. On 19.08.2006, the petitioner's husband appeared before respondent No.3 in the enquiry held by her. It is, however, alleged that on that day at the request of the petitioner's husband, respondent No.3 told him that she will send further notice to him to appear on a future date and that no such notice was sent later.

On 13.10.2006, respondent No.2 issued declaration under Section 6 of the Act, which was published in the newspapers on 26.10.2006. The petitioner filed the present writ petition questioning the aforementioned notification and declaration.

Miss. A. Prabhavathi, Revenue Divisional Officer and Land Acquisition Officer, Gudivada, Krishna District, respondent No.3, filed a counter-affidavit in which it is *inter alia* mentioned that the land belonging to the petitioner was acquired for public purpose, namely, providing house sites for the poor and in view of the urgency involved, enquiry under Section 5A of the Act was dispensed with. It is further averred that following order dated 30.06.2006 passed by this Court in Writ Petition No.13218 of 2006, she issued notice to the petitioner on 12.08.2006 calling for objections and fixing 19.08.2006 as the date of enquiry. The petitioner submitted her written objections and on the date of enquiry, namely, 19.08.2006, her husband Sri Bommareddy Ramanadha Reddy, S/o. Padma Reddy attended respondent No.3's office and made representation before her. It is further stated that the petitioner's husband during enquiry stated that out of an extent of Ac.4.68 cents standing in the name of the petitioner and her family, an extent of Ac.2.43 cents was orally gifted to her daughter Smt. Nallamilli Sridevi at the time of her marriage and that if the extent of Ac.1.00 proposed for acquisition was acquired,

rest of the land will be divided into two parts and that it becomes hindrance for cultivation of the balance extent of land. It is further stated that he raised an objection that the proposed land is located 3 kilometers away from the village and not suitable for houses and that respondent No.3 considered the objections and submitted a report to respondent No.2, who, after considering the same, rejected the petitioner's objections and declaration under Section 6 of the Act was published.

Heard Sri Adinarayana, learned counsel for the petitioner and the learned Assistant Government Pleader for Land Acquisition.

Learned counsel for the petitioner submitted that the petitioner's main objections, namely, that she is a small farmer and that the land proposed for acquisition, which is 2 kilometers away from the village, is not suitable for providing house sites, are not properly considered. He further stated that though respondent No.3 promised the husband of the petitioner on 19.08.2006 that a further notice will be issued and he will be further heard, no such opportunity was given.

I have carefully perused the report submitted by respondent No.3 to respondent No.2 under which the objections raised on behalf of the petitioner were considered. Respondent No.3 in the said report held as under:

> "I have got enquired into the above objections raised by the individual who attended the enquiry under Section 5A. Enquiry reveal that Sri Bommareddy Ramanadha Reddy is a pensioner and residing at Vijayawada with his family. Their family is not depending mainly on agriculture and they will not come under the purview of small or marginal farmers. It is not true to say that the land proposed for acquisition in this case is 2 km away and not suitable for providing house sites. The land proposed for acquisition in this case is very nearer to the existing habitation of new Pedamaddali Village from

where the beneficiaries were identified. It is also not correct that the lands lying in upper areas will be deprived of drainage facility if the land proposed for acquisition in this case is acquired. There is material evidence produced by the individual that their family left Ac.5.00 of tank for public purpose. I finally submit that there are no merits in the objections raised by the individual and they need no consideration."

A perusal of the above-reproduced portion of the report clearly shows that respondent No.3 applied her mind to the objections raised by the petitioner. During the hearing, learned counsel for the petitioner has not denied the fact that the husband of the petitioner is a pensioner. The petitioner failed to give the details of the post, which her husband was holding prior to his retirement and the amount of pension he is drawing in order to show that the pension is not the main source of living for the petitioner and that she is dependant mainly on the agriculture. Respondent No.2 also considered the objection of the petitioner that the land is situated 2 kilometers away and that it is not suitable for house sites and rejected the said contention.

As regards the averment that on 19.08.2006 respondent No.3 promised to give a further notice, petitioner has not filed any evidence in support of the said plea and on the basis of the Ipsi Dixit of the petitioner, I am not prepared to accept this statement of hers'. After a careful perusal of the material on record, I am satisfied that the objections raised by the petitioner were duly considered by respondent No.3. It is legally well settled that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, does not sit as a Court of appeal and it would only examine whether the decision of an administrative authority suffers from any illegality, irrationality or procedural impropriety (see **Tata Cellular v. Union of India**[1] and **Reliance Energy**

Limited and another v. Maharashtra State Road Development Corporation Limited[2]). In the instant case, the order by which respondent No.2 disposed of the objections of the petitioner, in my opinion, does not suffer from any of the above grounds warranting interference by this Court.

For the aforementioned reasons, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.29447 of 2006 filed by the petitioner for interim relief is also dismissed. In view of the dismissal of WPMP.No.29447 of 2006, WVMP.No.605 of 2007 is disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

Date: 23.11.2007
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[1] (1994) 6 SCC 651
[2] (2007) 8 SCC 1